



C.R.P.(MD)No.2869 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 23/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD)No.2869 of 2023

and

CMP (MD)No.14928 of 2023

1.P.Renuka Devi

2.P.Pavithiran

3.P.Rajkumar

: Petitioners/Petitioners/
Appellants

Vs.

1.Santhosh R.Hombal

Duly represented by his

Lawful Attorney

N.Vasanthakumar

2.Kesavan

3.T.Radhakrishnan

4.P.Mahalakshmi

5.P.sengamalathayar

6.B.Veerabadrappa

7.M.Ramesh

: Respondents

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed by the Additional District Judge, Virudhunagar, in IA No.81 of 2021 in AS No.68 of 2017 dated 31/07/2023 on the file of the Additional District Court, Virudhunagar and pass any such further or other orders.

For Petitioners : Mrs.Lakshmi Gopinathan
for M/s.Polax Legal Solution

For 1st Respondent : Mr.S.Pon Senthil Kumar

For R2 to R7 : Given up



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O R D E R

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This civil revision petition is filed seeking to set aside the fair and decreetal order passed by the Additional District Judge, Virudhunagar, in IA No.81 of 2021 in AS No.68 of 2017, dated 31/07/2023.

2.The facts in brief:-

Suit in OS No.15 of 2014 was filed by one Santhosh R.Hombal through the Power of Attorney N.Vasanthakumar against the petitioners herein and others seeking the relief of declaration that the preliminary decree, dated 07/11/2008 in OS No.6 of 2008 is nullity and for costs. The petitioners and others appeared and filed the written statement. After full trial, that suit was decreed as prayed for. Against which, AS No.68 of 2017 was preferred by Renukadevi, P.Pavithiran and P.Rajkumar namely the defendants 1 to 3 before the District Court, Srivilliputhur. Pending appeal process, the IA No.81 of 2021 and another IA No.32 of 2021 were filed by the petitioners, one for receiving the additional statement and another for receiving the additional documents. IA No.81 of 2021 was dismissed by the appellate court stating that to fill up the lacuna only, additional written statement sought to be filed, which is not permissible under law.



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3. Against which, this civil revision petition is filed.

4. Heard both sides.

5. The learned counsel appearing for the 1st respondent/plaintiff would submit that by way of introducing the additional written statement, the defendants want to change the character of the issue. He will be referring to the original suit, additional written statement and the original statement; In the original suit, they have stated that the property was purchased by one Seenivasan, but now they want to vary the above said statement stating that the property was purchased in the name of Seenivasan out of the money provided by the first petitioner/first defendant. Now what they want to say is that the money was provided by the first defendant, but the property was purchased in name of Seenivasan. In effect, they want to contradict the earlier stand that the property belongs to Seenivasan. So according to the 1st respondent, it is settled proposition of law that a party cannot be permitted to contradict or withdraw the earlier stand of admission by referring the judgment of the Hon'ble Supreme Court reported in ***Union of India Vs. Ibrahim Uddin and another [(2012) 8 SCC 148]***.



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6.Per contra, the learned counsel appearing for the petitioners would submit that by way of this additional written statement, they want to explain the source of money. In the written statement, they have stated that the property was purchased by Seenivasan, but it does not preclude them from explaining the source of purchase money. So according to them, the original plaint suit is not treated to be contradict by the present additional written statement. The party must be permitted to explain the pleadings earlier filed, which is not prohibited.

7.But from the extracted portion of the original plaint and the additional written statement, it is seen that they want to contradict and withdraw the earlier admission in the earlier original suit. So if it is permitted, then the entire issue to be decided will change.

8.So I am of considered view that this is not permissible in law. So it has been rightly dismissed by the appellate court, which requires no interference.

9.At the conclusion of the hearing the learned counsel appearing for the petitioners sought a direction from this court to the appellate court to dispose the



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Order 41 Rule 27 CPC petition filed by the petitioners independently on appeal hearing suit. He would rely upon the order of this court made in CRP(MD)No.492 of 2023, dated 22/02/2023 (K.Thilagavathi Vs. R.Rajeshwari and others). But that is not the subject of the revision, no such direction can also be issued by this court, merely on the oral request made by the learned counsel appearing for the petitioners.

10.In the result, this civil revision petition is **dismissed.** No costs. Consequently, connected Miscellaneous Petition is closed.

23/02/2024

Index:Yes/No
Internet:Yes/No
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To,

The Additional District Court,
Virudhunagar.



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G.ILANGOVAN, J

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